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C O R R E C T E D C O P Y - ADDRESEE ADDED

SIPDIS
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E.O. 12958: N/A

TAGS: [ELAB](#) [ECON](#) [PREL](#) [BL](#) [PGOV](#) [EAID](#)

SUBJECT: BOLIVIA - response to TDA report on worst forms of child labor

REF: 09 LA PAZ 1417; 09 STATE 131995

¶1. Per reftel B, post submits the following information for the U.S. Department of Labor's Congressional Reporting Requirements related to forced and child labor.

¶2. Post has no new information relevant to tasking 1: The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Section 105(b) and Executive Order 13126 of 1999.

¶3. The following are answers in response to tasking 2: Trade and Development Act (TDA) of 2000, keyed to questions in reftel B.

2A) PREVALENCE AND SECTORAL DISTRIBUTION OF EXPLOITATIVE CHILD LABOR

¶1. In what sectors (not related to the production of goods) were children involved in exploitive labor?

There have been no changes since the 2008 TDA report which states that children are involved in assisting families in subsistence agriculture, the production of sugar cane and Brazil nuts, mining, street vending, shining shoes, assisting transport operators, and transporting drugs. There were reports of children trafficked for forced labor to neighboring countries. The Ministry of Labor and UNICEF both note that there has been a decrease of child labor in the production of sugar cane due to the increased use of machinery and increased awareness and education.

¶2. Posts are requested to determine if the government collected or published data on exploitive child labor during the period, and if so, whether the government would provide the data set to DOL for further analysis.

The government of Bolivia (GOB) does not have any of its own data on exploitative child labor. It relies heavily on NGOs (specifically UNICEF, ILO, and CARE) who conduct such research. The GOB is willing to collect such data, but lacks resources. The GOB National Institute of Statistics (INE) is close to finishing a project that will measure how communities view child labor.

According to the International Labor Organization (ILO), 313,529 children between the ages of seven to seventeen work in Bolivia.

2B) LAWS AND REGULATIONS

1. What new laws or regulations were enacted in regard to exploitive child labor over the past year? If applicable, were the changes improvements in the legal and regulatory framework?

Although no new laws were implemented, a new constitution was approved in January 2009. Articles 60 and 61 of the new constitution state that any form of violence against children is prohibited. The constitution also prohibits forced or exploitive child labor. This is the first time that child labor has been prohibited at the constitutional level. The current laws are sufficient to implement these articles of the new constitution, still the GOB is going to take a new look at all relevant laws to ensure there are no missing areas.

2. Was the country/territory's legal and regulatory framework adequate for addressing exploitive child labor?

The laws as written are comprehensive and should be adequate to address exploitive child labor. However, enforcement remains weak.

2C) INSTITUTIONS AND MECHANISMS FOR ENFORCEMENT

E

NOTE: The GOB does not collect data on child labor cases in sufficient detail to answer most questions below. Some data is collected by each inspector at the local level, but the data is not entered into a common database. Therefore, the GOB is unable to provide us with the details asked below about numbers of cases and their resolution. UNICEF is hoping to work with the GOB to develop a more comprehensive data collection system, but at this time the data does not exist.

Hazardous child labor

1. What agency or agencies was/were responsible for the enforcement of laws relating to hazardous child labor?

The Ministry of Labor is responsible for making policies related to hazardous child labor and helping to enforce the laws through inspections and by referring cases to the labor court. The Ministry also refers cases to the Children's Defense office, which can bring cases before a court who deals specifically with children's issues.

2. If multiple agencies were responsible for enforcement, were there mechanisms for exchanging information? Assess their effectiveness.

The Ministry of Labor heads an Inter-institutional Commission that aides in coordinating the various entities involved in child labor issues - the Ministry of Labor, Ministry of Justice, local courts, Ministry of Education, Ministry of Health, and various NGOs. Lines of responsibility for enforcement are clearly defined, but additional collaboration is necessary. The Ministry of Labor points out that removing a child from work will not last if there are not other (i.e. educational) opportunities for him/her.

3. Did the country/territory maintain a mechanism for making complaints about hazardous child labor violations? If so, how many complaints were received in the reporting period?

The Ministry of Labor receives all labor complaints. There is no record of how many of those complains were related to hazardous

child labor.

¶4. What amount of funding was provided to agencies responsible for inspections?

Inspectors lack sufficient funding to carry out their duties. Additionally, inspections are only carried out upon receipt of a complaint.

¶5. How many inspectors did the government employ? Was the number of inspectors adequate?

The Ministry of Labor employs 35 labor inspectors who are responsible for all labor complaints. In addition, there are now four inspectors specifically dedicated to inspections related to child labor (two of these positions are funded by UNICEF). These four dedicated inspectors are able to make inspections without being prompted by a complaint and their existence is a major improvement. There is one inspector for each of the four areas determined by the GOB to have the worst child labor situations (Riberalta, Santa Cruz, Potosi, and Bermejo). Still, the number of inspectors does not seem sufficient to enforce the law country-wide.

¶6. How many inspections involving child labor were carried out?

All inspections done by the 35 general labor inspectors are done only in response to a complaint and it is believed that none were related to child labor. However, the four dedicated child labor inspectors conducted 90 inspections in 2009 (not complaint driven). No child labor violations were found in 90% of the inspections. The other 10% were instances of child labor between the ages of 14-18 and are still being investigated.

¶7. How many children were removed/assisted as a result of inspections? Were these children actually provided or referred for services as a result (as opposed to simply fired)?

Any case of hazardous child labor was referred to the Children's Defense Office, which is responsible for protecting the rights of children. The Children's Defense Office has the ability to bring cases before a children's court but there are no statistics available as to how many were brought in 2009.

¶8. How many child labor cases or "prosecutions" were opened?

As noted above, the GOB does not collect such data.

¶9. How many child labor cases were closed or resolved?

As noted above, the GOB does not collect such data.

¶10. How many violations were found or "convictions" reached?

As noted above, the GOB does not collect such data.

¶11. What is the average length of time it took to resolve child labor cases?

It is unknown.

¶12. In cases in which violations were found, were penalties actually applied, either through fines paid or jail sentence served? Did such sentences meet penalties established in the law? The Ministry of Labor is able to fine employers and the labor courts enforce the penalties. Due to the lack of data, it cannot be determined if the penalties are effective.

¶13. Did the experience regarding questions 7 through 10 above reflect a commitment to combat exploitive child labor?

The GOB appears committed to combating exploitive child labor, but sees the problem as larger and more complex than imposing fines. The Ministry of Labor understands that children need to be given alternatives to work, including education, and their parents need to make sufficient money so that they don't need the kids to work just to earn enough to survive. The Ministry seems to have a more multi-faceted approach than just enforcing the law.

¶14. Did government offer any training for investigators or others responsible for enforcement? If so, what (if any) impact have these trainings had?

The Ministry of Labor provides training for all labor inspectors. The four inspectors dedicated to child labor received special training before beginning their jobs. The dedicated inspectors are also trained on how to teach local authorities and others in the

communities about child labor. The GOB, UNICEF, and the ILO worked together to train inspectors and the Children's Defense Office on how to assist the victims.

Forced child labor

¶1. What agency or agencies was/were responsible for the enforcement of laws relating to forced child labor?

Forced child labor is dealt with under the umbrella of "trafficking in persons" due to its classification as labor exploitation, whether of adults or children. There is a special unit of the police that deals with all trafficking investigations and cases are brought before a criminal court.

¶2. If multiple agencies were responsible for enforcement, were there mechanisms for exchanging information? Assess their effectiveness.

There is relatively good coordination on trafficking cases.

¶3. Did the country/territory maintain a mechanism for making complaints about forced child labor violations? If so, how many complaints were received in the reporting period?

All special units of the Bolivian police dedicated to trafficking issues maintain a telephone hotline to receive information and complaints from the public. These numbers are distributed on posters and other awareness and educational materials distributed throughout the country. It is unknown how many complaints were received during this reporting period as the GOB does not collect this type of data.

¶4. What amount of funding was provided to agencies responsible for inspections? Was this amount adequate? Did inspectors have sufficient office facilities, transportation, fuel, and other necessities to carry out inspections?

The USG (via our Narcotics Affairs Section) fully funds these special police units with \$250,000 annually.

¶5. How many inspectors did the government employ? Was the number of inspectors adequate?

The GOB/Public Ministry & Ministry of Government have dedicated Special Police Investigative Units (SIU) and prosecutors to address the issue of Trafficking in Persons (TIP) for sexual and labor exploitation purposes. Currently there are four such units

comprised of a total of 24 Bolivian National Police (BNP) investigators located in La Paz, El Alto, Santa Cruz, and Cochabamba. Each city also has a contingent of dedicated GOB prosecutors that have the judicial responsibility to prosecute these TIP cases. In 2010 the GOB will be opening an additional 6 TIP/SIU's located along the frontiers with Peru, Brazil & Argentina.

¶16. How many inspections involving child labor were carried out? If possible, please provide breakdown of complaint-driven versus random, government-initiated inspections. Were inspections carried out in sectors in which children work? Was the number of inspections adequate?

During this reporting period there were a total of 280 TIP cases initiated in Bolivia. This represents a 19% increase over the number of TIP related investigations from the period last year. There is no data to show which of these cases is related to forced/exploitive child labor, however, we believe it to be very

few, if not none.

¶17. How many children were removed/assisted as a result of inspections? Were these children actually provided or referred for services as a result (as opposed to simply fired)?

There were more than 300 reported victims rescued and/or involved in the 280 TIP cases initiated during this reporting period. Again, there is no data to show which of those were children removed from exploitive labor.

¶18. How many child labor cases or "prosecutions" were opened? There have been arrests made by the Bolivian National Police in every TIP case identified, however, it should be noted that under the current judicial system in Bolivia, the respective defendants immediately go before a Prosecutor, who may decide to allow the defendant to go free pending continuation of the investigative and judicial process. If the defendant is remanded, he or she will then go before a judge who also can decide whether to allow the person to be released from custody. The fact is that the majority of those initially arrested are later released during the remainder of the judicial process. And, there is no data to show which, if any, of these cases were related to exploitive child labor.

¶19. How many child labor cases were closed or resolved?

Of the 280 TIP cases initiated, 180 remain in either initial investigative stage with the police or secondary investigative stage with the Prosecutors; 79 cases have been dismissed, most for evidentiary reasons; 5 are currently in trial; 4 have been closed with pleas and/or convictions and the remainder are either in the initial preliminary charge stage or have been transferred to another jurisdiction for follow-up. Again, there is no data to say if any of these cases were related to exploitive child labor.

¶110. How many violations were found or "convictions" reached? There have been a total of 4 TIP cases resolved via trial and conviction and/or guilty pleas, but we believe none were related to exploitive child labor.

¶111. What is the average length of time it took to resolve child labor cases? The average is one year for TIP cases.

¶112. In cases in which violations were found, were penalties

actually applied, either through fines paid or jail sentence served? Did such sentences meet penalties established in the law? The government prohibits all forms of human trafficking (including exploitive or forced labor) through Law 3325, an anti-trafficking law enacted in 2006, which prescribes penalties of four to 12 years' imprisonment. The law contains aggravated penalties for trafficking offenses involving minors; organized criminal groups; and public employees responsible for protecting children. Penalties enforced were consistent with the law.

¶13. Did the experience regarding questions 7 through 10 above reflect a commitment to combat exploitive child labor?

It appears the GOB remains committed to fighting exploitive child labor, but no data is available regarding enforcement.

¶14. Did government offer any training for investigators or others responsible for enforcement? If so, what (if any) impact have these trainings had?

Police and Prosecutors responsible for investigations in this area are given special national and international training on how to deal with the victim immediately after removing them from the situation. Trainings are conducted by the GOB with the assistance of international donors.

During this reporting period, the GOB, with support from the USG/NAS, sponsored the 1st Annual International Trafficking in Persons Conference in April 2009 in Cochabamba, Bolivia. In addition, the USG/NAS in conjunction with the GOB, UNODC, and OIM sponsored several TIP and Victim Assistance conferences during 2009, along with a one week training course for the 45 new BNP investigators and prosecutors who will be assigned to the frontier TIP SIU's in 2010.

2D) INSTITUTIONAL MECHANISMS FOR EFFECTIVE ENFORCEMENT- child trafficking, commercial sexual exploitation of children, use of children in illicit activities:

¶1. Did the country/territory have agencies or personnel dedicated to enforcement of child trafficking/CSEC/use of children in illicit activities? How many investigators/social workers/dedicated police officers did the government employ to conduct investigations? If there were no dedicated agencies or personnel, provide an estimate of the number of people who were responsible for such investigations. Was the number of investigators adequate? The GOB/Public Ministry & Ministry of Government have dedicated Special Police Investigative Units (SIU) and prosecutors to address the issue of Trafficking in Persons (TIP) for sexual and labor exploitation purposes. Currently there are four such units comprised of a total of 24 Bolivian National Police (BNP) investigators located in La Paz, El Alto, Santa Cruz, and Cochabamba. Each city also has a contingent of dedicated GOB prosecutors that have the judicial responsibility to prosecute these TIP cases. In 2010 the GOB will be opening an additional 6 TIP/SIU's located along the frontiers with Peru, Brazil & Argentina. The USG/NAS provides all infra-structure and administrative support to this GOB/TIP Program.

¶2. How much funding was provided to agencies responsible for investigating child trafficking/CSEC/use of children in illicit activities? Was this amount adequate? Did investigators have sufficient office facilities, transportation, fuel, and other necessities to carry out investigations? The USG (via our Narcotics Affairs Section) fully funds these special police units with \$250,000 annually.

13. Did the country/territory maintain a hotline or other mechanism for reporting child trafficking/CSEC/use of children in illicit activities violations? If so, how many complaints were received in the reporting period?

All four BNP/TIP SIU maintain telephone hotlines to receive information and complaints from the public. These numbers are distributed on posters and other awareness and educational materials distributed throughout the country. It is unknown how many complaints were received during this reporting period.

14. How many investigations were opened in regard to child trafficking/CSEC/use of children in illicit activities? Was the number of investigations adequate?

During this reporting period there were a total of 280 TIP cases initiated in Bolivia. This represents a 19% increase over the number of TIP related investigations from the previous year.

15. How many children were rescued as a result?

More than 300 reported victims were rescued and/or involved in the 280 TIP cases initiated during this reporting period.

16. How many arrests were made or other kinds of prosecutions carried out?

There have been arrests made by the Bolivian National Police in every TIP case identified (280), however, it should be noted that under the current judicial system in Bolivia, the respective defendants immediately go before a Prosecutor, who may decide to allow the defendant to go free pending continuation of the investigative and judicial process. If the defendant is remanded, he or she will then go before a judge who also can decide whether to allow the person to be released from custody. The fact is that the majority of those initially arrested are later released during the remainder of the judicial process.

17. How many cases were closed or resolved?

Of the 280 cases initiated, 180 remain in either initial investigative stage with the police or secondary investigative stage with the Prosecutors; 79 cases have been dismissed, most for evidentiary reasons; 5 are currently in trial; 4 have been closed with pleas and/or convictions and the remainder are either in the initial preliminary charge stage or have been transferred to another jurisdiction for follow-up.

18. How many convictions?

There have been a total of 4 cases resolved via trial and conviction and/or guilty pleas.

19. Did sentences imposed meet standards established in the legal framework?

Most cases involving TIP violations are eventually pleaded down to a lesser offense simply to bring about a quicker resolution to the case.

110. Were sentences imposed actually served?

In those cases that were adjudicated and sentenced received, the defendants are in fact incarcerated and serving their sentence.

111. What is the average length of time it takes to resolve cases of child trafficking/CSEC/use of children in illicit activities?

1 year

¶12. Did the government offer any training for investigators or others responsible for enforcement of child trafficking/CSEC/use of children in illicit activities? If so, what was the impact (if any) of these trainings?

During this reporting period the GOB, with support from the USG/NAS, sponsored the 1st Annual International Trafficking in Persons Conference that took place in April 2009 in Cochabamba, Bolivia. Attendance was estimated at approximately 200 with

representative from all regional countries the GOB and many NGO's with interest in the TIP issues. In addition, the USG/NAS in conjunction with the GOB, UNODC and OIM sponsored several TIP and Victim Assistance conferences during 2009, along with a one week training course for the 45 new BNP investigator and prosecutors who will be assigned to the frontier TIP SIU's in 2010.

¶13. If the country/territory experienced armed conflict during the reporting period or in the recent past involving the use of child soldiers, what actions were taken to penalize those responsible? Were these actions adequate or meaningful given the situation?

N/A

2E) GOVERNMENT POLICIES ON CHILD LABOR:

¶1. Did the government have a policy or plan that specifically addresses exploitive child labor? Please describe.

Child labor is addressed as part of the 2000 - 2010 National Development Plan, which specifically states goals of: 1) eradication of child labor (child under 14 years old), 2) eradication of the worst form of child labor (under 18 years old), 3) and protection of working adolescents.

The Ministry of Labor also hosts a "technical roundtable" with the ILO and UNICEF to discuss the issue and develop government policy. In addition, the Ministry of Justice has a plan called the "Human Rights Plan" oriented to protect the rights of education and health of a child.

¶2. Did the country/territory incorporate exploitive child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies, such as Poverty Reduction Strategy Papers, etc? Please describe.

Child labor is addressed as part of the 2000 - 2010 National Development Plan, which specifically states goals of: 1) eradication of child labor (child under 14 years old), 2) eradication of the worst form of child labor (under 18 years old), 3) and protection of working adolescents. The National Development Plan also hopes to improve access to health care and education, two key complementary factors.

¶3. Did the government provide funding to the plans described above? Please describe the amount and whether it was sufficient to carry out the planned activities.

Funds are allocated to specific offices in the Ministry of Labor who are dedicated to work on child labor issues.

¶4. Did the government provide non-monetary support to child labor plans? Please describe.

The GOB has developed an Inter-institutional Commission that provides a forum for interested parties to coordinate ideas and plans and to discuss ideas across sectors.

15. Provide any additional information about the status and effectiveness of the government's policies or plans during the reporting period in regard to exploitive child labor.

The GOB continues to have combating child labor as part of its long term plans, but the effectiveness of such plans has not been measured. Anecdotally, UNICEF and the Ministry believe that the use of children in the production of sugar cane has diminished due to the increased use of machinery as well as the increased

awareness of all involved. Workers have begun to demand better working and living conditions and are receiving better health care and education due to programs sponsored by the GOB, UNICEF, and the ILO, making them less likely to bring their families along to work with them. Six major sugar companies have signed agreements to provide health care for their workers.

16. Did the government participate in any commissions or task forces regarding exploitive child labor? Was the commission active and/or effective?

The GOB has developed an Inter-institutional Commission that provides a forum for interested parties to coordinate ideas and plans and to discuss ideas across sectors.

17. Did the government sign a bilateral, regional or international agreement to combat trafficking?

The GOB signed no new agreements in 2009, but remains a signatory to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; the UN Convention Against Transnational Organized Crime; the UN Convention on the Rights of the Child; and the UN Protocol on the Sale of Children, Child Prostitution and Child Pornography.

2F) SOCIAL PROGRAMS TO ELIMINATE OR PREVENT CHILD LABOR:

1. Did the government implement any programs specifically to address the worst forms of child labor? Please describe. (Please note that DOL will not consider anti-poverty, education or other general child welfare programs to be addressing exploitive child labor unless they have a child labor component.)

Bolivia receives a \$3.3 million technical assistance program from the U.S. Department of Labor to combat the worst forms of child labor, specifically assisting in providing educational services to children to give them an alternative to work.

Bolivia will also be part of a new \$6.7million Department of Labor technical assistance program that will include Brazil, Ecuador, and Paraguay and focus on agricultural and urban child labor.

The GOB also continues a conditional cash transfer program called Bono Juancito Pinto to encourage children to attend and stay in school. Public school students from grades 1-8 receive approximately \$30 a year if they attend school 75% of the time (ref A).

The GOB has worked closely with UNICEF and the ILO on various other projects. In 2009 UNICEF completed a comprehensive study about the use of child labor in harvesting Brazil nuts. UNICEF will use the information from this study to develop a program for its elimination. UNICEF, the ILO, and the GOB are also working together on a project to train labor inspectors on a common method of recording inspections with the hopes of creating a more reliable data base of information.

12. Did the country/territory incorporate child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social programs, such as conditional cash transfer programs or eligibility for school meals, etc? Please describe.

Child labor is addressed as part of the 2000 - 2010 National

Development Plan, which specifically states goals of: 1) eradication of child labor (child under 14 years old), 2) eradication of the worst form of child labor (under 18 years old), 3) and protection of working adolescents.

13. Did the government provide funding to the programs described

above? Please describe amount and whether it was sufficient to carry out the planned activities.

The Bono Juancito Pinto received approximately \$53 million in 2008 and reached almost 2 million students.

14. Did the government provide non-monetary support to child labor programs? Please describe.

The GOB has developed an Inter-institutional Commission that provides a forum for interested parties to coordinate ideas and plans and to discuss ideas across sectors. Through this commission the GOB invites all interested NGOs to come and coordinate on projects.

15. Provide any additional information about the status and effectiveness of the government's activities during the reporting period in relation to the programs described above. If the programs involved government provision of social services to children at risk of or involved in exploitive child labor, please describe and assess the effectiveness of these services.

It is difficult to measure the results of any of the programs as there is little data available regarding how many children are actually working. However, the Bono Juancito Pinto has helped raise attendance rates in schools, reaching approximately 95% for up to 6th grade. Additionally, UNICEF and the Ministry believe that the use of children in the production of sugar cane has diminished due to the increased use of machinery as well as the increased awareness of all involved. Workers have begun to demand better working and living conditions and are receiving better health care and education due to programs sponsored by the GOB, UNICEF, and the ILO, making them less likely to bring their families along to work with them. Six major sugar companies have signed agreements to provide health care for their workers.

16. If the government signed one or more bilateral, regional or international agreement/s to combat trafficking, what steps did it take to implement such agreement/s? Did the agreement/s result in tangible improvements? If so, please describe.

The GOB signed no new agreements in 2009, but remains a signatory to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; the UN Convention Against Transnational Organized Crime; the UN Convention on the Rights of the Child; and the UN Protocol on the Sale of Children, Child Prostitution and Child Pornography.

2G) CONTINUAL PROGRESS:

1. Considering the information provided to the questions above, please provide an assessment of whether, overall, the government made progress in regard to combating exploitive child labor during the reporting period. In making this assessment, please indicate whether there has been an increase or decrease from previous years in inspections/investigations, prosecutions, and convictions; funding for child labor elimination policies and programs; and any other relevant indicators of government commitment.

Although the GOB remains committed to combating child labor, any measurable results could be considered limited. The adoption of new trafficking laws in 2006 made Bolivia a leader in the region on this issue. The appointment of dedicated child labor inspectors and increased presence in the field is a positive step in the right direction. The call for the elimination of child labor in the new constitution suggests that the issue remains important for the GOB. This, coupled with already strong laws, will hopefully show additional progress in the future.

Creamer